

2012cv01562/ja

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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEW JERSEY**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

- v. -

**THE REAL PROPERTY LOCATED  
AT:**

**9 POLHEMUS TERRACE  
WHIPPANY, NEW JERSEY;**

**340 HIGHLAND AVENUE,  
KEARNY, NEW JERSEY;**

**180 WINDSOR STREET,  
KEARNY, NEW JERSEY;**

**355 MAPLE STREET,  
KEARNY, NEW JERSEY;**

**212 VAN HOUTEN STREET,  
PATERSON, NEW JERSEY;**

**120 FOREST WAY,  
ESSEX FELLS, NEW JERSEY;**

**193 KEARNY AVENUE,  
KEARNY, NEW JERSEY; and**

**Honorable Susan D. Wigenton**

**Civil Action No. 12-5121**

**CONSENT JUDGMENT AND  
FINAL ORDER OF FORFEITURE**

**1420-32 W. FRONT STREET,  
PLAINFIELD, NEW JERSEY;**

***Defendants in rem.***

This matter being opened to the Court by Paul J. Fishman, United States Attorney for the District of New Jersey, by Evan S. Weitz, Assistant United States Attorney, Attorney for Plaintiff, and Rajiv D. Parikh, Esq. and George L. Schneider, Esq., Attorneys for Emanuel Marques, the Parties having stipulated and agreed through their authorized representatives upon the following:

**WHEREAS**, on August 14, 2012, a Verified Complaint for Forfeiture *In Rem* seeking forfeiture pursuant to 31 U.S.C. § 5317(c)(2) was filed in the United States District Court for the District of New Jersey by Evan S. Weitz, Assistant United States Attorney, on behalf of the United States of America, plaintiff, against the defendant properties, namely (i) 9 Polhemus Terrace, Whippany, New Jersey; (ii) 340 Highland Avenue, Kearny, New Jersey; (iii) 180 Windsor Street, Kearny, New Jersey; (iv) 355 Maple Street, Kearny, New Jersey; (v) 212 Van Houten Street, Paterson, New Jersey; (vi) 120 Forest Way, Essex Fells, New Jersey; (vii) 193 Kearny Avenue, Kearny, New Jersey; and (viii) 1420-32 West Front Street, Plainfield, New Jersey (collectively the "defendant properties"); and

**WHEREAS**, on or about August 16, 2012, a Notice of Lis Pendens regarding the commencement and pendency of the above-entitled civil action was recorded and indexed by the Morris County Clerk Office for the real property known as 9 Polhemus Terrace, Whippany, New Jersey; and

**WHEREAS**, on or about August 16, 2012, Notices of Lis Pendens regarding the commencement and pendency of the above-entitled civil action was recorded and indexed by the Hudson County Register of Deeds for the real properties known as a) 340 Highland Avenue, Kearny, New Jersey; b) 180 Windsor Street, Kearny, New Jersey; c) 355 Maple Street, Kearny, New Jersey; and d) 193 Kearny Avenue, Kearny, New Jersey; and

**WHEREAS**, on or about August 16, 2012, a Notice of Lis Pendens regarding the commencement and pendency of the above-entitled civil action was recorded and indexed by the Passaic County Clerk's Office for the real property known as 212 Van Houten Street, Paterson, New Jersey; and

**WHEREAS**, on or about August 16, 2012, a Notice of Lis Pendens regarding the commencement and pendency of the above-entitled civil action was recorded and indexed by the Essex County Register's Office for the real property known as 120 Forest Way, Essex Fells, New Jersey; and

**WHEREAS**, on or about August 16, 2012, a Notice of Lis Pendens regarding the commencement and pendency of the above-entitled civil action was recorded and indexed by the Union County Clerk's Office for the real property known as 1420-32 West Front Street, Plainfield, New Jersey; and

**WHEREAS**, on or about August 16, 2012, agents from the Internal Revenue Service-Criminal Investigations (hereinafter "IRS-CI") personally served Emanuel Marques with copies of the Verified Complaint for Forfeiture *In Rem* and a Notice of Complaint for Forfeiture Against Real Properties; and

**WHEREAS**, on or about August 21, 2012, a copy of the Verified Complaint for Forfeiture *In Rem* and a Notice of Complaint for Forfeiture Against Real Properties was served on A.K. Plainfield Associates, 55 Giggleswick Way, Edison, New Jersey as lienholder for the real property located at 1420-32 West Front Street, Plainfield, New Jersey; and

**WHEREAS**, on or about August 21, 2012, a copy of the Verified Complaint for Forfeiture *In Rem* and a Notice of Complaint for Forfeiture Against Real Properties was served on T.D. Bank, One Portland Square, Portland, Maine 04101 as lienholder to the real property located at 9 Polhemus Terrace, Whippany, New Jersey; and

**WHEREAS**, on or about August 27, 2012, a copy of the Verified Complaint for Forfeiture *In Rem* and a Notice of Complaint for Forfeiture Against Real Properties was received by T.D. Bank, One Portland Square, Portland, Maine 04101 as lienholder to the real property located at 9 Polhemus Terrace, Whippany, New Jersey; and

**WHEREAS**, on or about August 28, 2012, a copy of the Verified Complaint for Forfeiture *In Rem* and a Notice of Complaint for Forfeiture Against Real Properties was received by A.K. Plainfield Associates, 55 Giggleswick Way, Edison, New Jersey as lienholder for the real property located at 1420-32 West Front Street, Plainfield, New Jersey; and

**WHEREAS**, on or about September 12, 2012, Plainfield Associates, LLP through counsel, Frank P. Beninato, Jr., Esq., filed a Claim and Answer to the

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Verified Complaint for Forfeiture *In Rem* as to 1420-32 West Front Street,  
Plainfield, New Jersey; and

**WHEREAS**, on or about October 5, 2012, TD Bank, through counsel Paul Mainardi, Esq. filed a Verified Third Party Claim to the Verified Complaint for Forfeiture *In Rem* as to 9 Polhemus Terrace, Whippany, New Jersey ; and

**WHEREAS**, on or about October 15, 2012, Emanuel Marques, through counsel, Rajiv D. Parikh, Esq., filed a Verified Claim and Answer to the Verified Complaint for Forfeiture *In Rem* as to the real properties; and

**WHEREAS**, pursuant to 18 U.S.C. § 983(a)(4)(A), and Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Federal Rules of Civil Procedure, a Notice of Forfeiture with respect to the defendant properties was posted on an official government internet site, namely [www.forfeiture.gov](http://www.forfeiture.gov), beginning on August 17, 2012, and running for thirty consecutive days through September 16, 2012; and

**WHEREAS**, no additional claims have been filed within the period required by law; and

**WHEREAS**, Emanuel Marques agrees to pay \$1,000,000 in full satisfaction of the civil forfeiture claims of the United States and that payment of this amount shall be made no later than the date of the entry of this Order by the Court; and

**WHEREAS**, in order to avoid the delay, uncertainty, inconvenience and expense of protracted litigation, the Parties of this Agreement agree as set forth herein to settle this matter; and

**WHEREAS**, Emanuel Marques represents that this agreement is freely and voluntarily entered into without any degree of duress or compulsion; and

**WHEREAS**, Emanuel Marques represents that he has standing to assert a claim, because he exclusively owns the defendant properties; and

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

**THAT** Emanuel Marques forfeits any interest he may have in \$1,000,000 which represents a substitute *res* for the defendant properties.

**THAT** Emanuel Marques agrees to forfeit \$1,000,000 to resolve this matter and shall deliver payment of said \$1,000,000 to the United States, in lieu of the United States seeking the forfeiture of the defendant real properties prior to the date of the entry of this Order by the Court.

**THAT** Emanuel Marques consents to the forfeiture of the \$1,000,000 to the United States upon the signing of this Agreement pursuant to 31 U.S.C. § 5317(c) for violation of 31 U.S.C. § 5324.

**THAT** Emanuel Marques agrees to make said payment by certified or bank check, payable to the United States Department of Treasury and cause said payment to be delivered to the United States Attorney's Office, District of New Jersey, Attention Assistant United States Attorney Evan S. Weitz, 970 Broad Street, Suite 700, Newark, New Jersey 07102 prior to the date of the entry of this Order by the Court.

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**THAT** the upon the forfeiture of said \$1,000,000 the United States agrees to terminate any and all forfeiture actions brought against the defendant properties based upon the allegations contained in the Civil Forfeiture Complaint filed in this action.

**THAT** upon the satisfaction of the terms of this Order, the United States shall deliver to Emanuel Marques's counsel a Release of Lis Pendens on the real properties known as (i) 9 Polhemus Terrace, Whippany, New Jersey; (ii) 340 Highland Avenue, Kearny, New Jersey; (iii) 180 Windsor Street, Kearny, New Jersey; (iv) 355 Maple Street, Kearny, New Jersey; (v) 212 Van Houten Street, Paterson, New Jersey; (vi) 120 Forest Way, Essex Fells, New Jersey; (vii) 193 Kearny Avenue, Kearny, New Jersey; and (viii) 1420 32 West Front Street, Plainfield, New Jersey.

**THAT** Emanuel Marques, his heirs and assigns, shall hold and save harmless the United States of America, its agents, employees and/or any other persons who assisted in the seizure or forfeiture, from any and all claims that might result from said seizure and forfeiture.

**THAT** Emanuel Marques hereby waives any right to directly or collaterally challenge in this Court, the Court of Appeals or any other forum, the seizure and forfeiture that is the subject of this agreement, including but not limited to, a waiver of the Federal Tort Claims Act, a Bivens action, an action for costs, as well as waiver of all constitutional and statutory defenses and claims in any forum.

**THAT** Emanuel Marques shall not be entitled to costs, nor shall the person or persons who made the seizure of the defendant properties, nor the

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prosecutor, be liable to suit or judgment on account of such seizures, suits or prosecutions, under 28 U.S.C. § 2465 or any statute or theory, there being a reasonable basis for the seizure of the defendant properties.

**THAT** the upon the forfeiture of said \$1,000,000 the United States agrees to cease any and all forfeiture proceedings that in any way affect the interest of Plainfield Associates LLP. or TD Bank as to the defendant properties arising from the allegations contained in the Verified Complaint for Forfeiture In Rem.

**THAT** the Claim and Answer filed by Plainfield Associates LLP as to the real property located at 1420-32 West Front Street, Plainfield, New Jersey is hereby dismissed as moot.

**THAT** the Claim filed by TD Bank as to the real property located at 9 Polhemus Terrace, Whippany, New Jersey is hereby dismissed as moot.

**THAT** the provisions of this Agreement shall apply to, be binding on, and inure to the benefit of the Parties to this action and their successors and assigns.

**THAT** this Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement will be the United States District Court for the District of New Jersey.

**THAT** any and all forfeited funds, including but not limited to currency, currency equivalents and certificates of deposits shall be deposited forthwith by the United States Department of Treasury, Internal Revenue Service-Criminal Investigation into the Department of Treasury Asset Forfeiture Fund, in accordance with the law.

**THAT** the undersigned individuals signing this Agreement on behalf of Emanuel Marques represent and warrant that they have full authority to execute this Agreement. The undersigned United States signatory represents that he is signing this Agreement in his official capacity and that he is authorized to execute this Agreement.

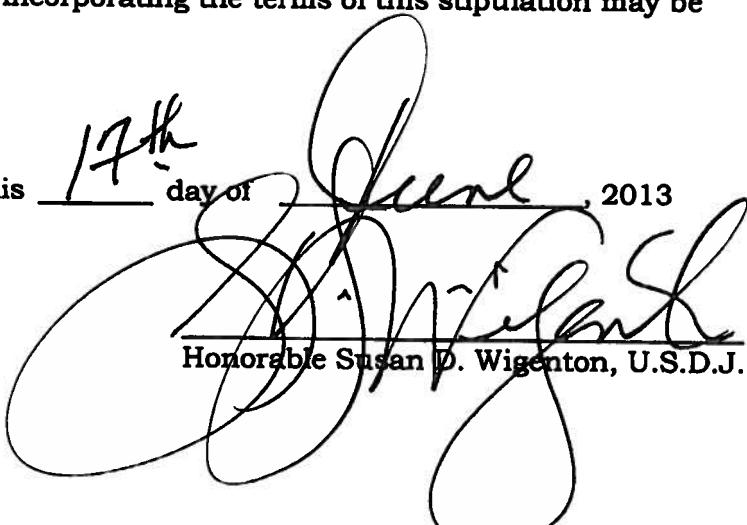
**THAT** the effective date of this Agreement is the date of signature of the last signatory to the Agreement.

**THAT** facsimiles of signatures shall constitute acceptable, binding signatures for the purpose of this Agreement.

**THAT** each party to this Agreement will bear its own legal and other costs incurred in connection with this matter, including, but not limited to, the preparation and performance of this Agreement.

**THAT** Judgment incorporating the terms of this stipulation may be entered by the Court.

So ORDERED, this 17<sup>th</sup> day of June, 2013

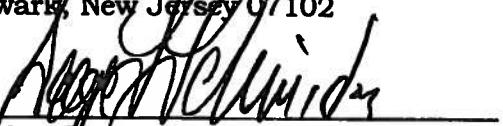
  
Honorable Susan D. Wigenton, U.S.D.J.

The Undersigned hereby consent  
to the entry and form of this  
Consent Judgment and Final Order  
of Forfeiture

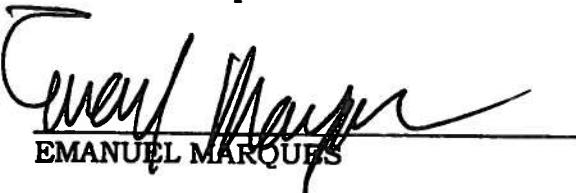
PAUL J. FISHMAN  
United States Attorney

  
EVAN S. WEITZ  
Assistant United States Attorney  
970 Broad Street, Suite 700  
Newark, New Jersey 07102

Dated: 9/3/13

  
GEORGE L. SCHNEIDER, ESQ.  
RAJIV D. PARIKH, ESQ.  
Genova Burns Giantomaso Webster, LLC.  
494 Broad Street  
Newark, New Jersey 07102  
Counsel for the Claimant  
Emanuel Marques

Dated: 3-18-13

  
EMANUEL MARQUES

Dated: 3/18/13